

**COMMITTEE ON SUPERIOR COURT
MINUTES**

Friday, May 14, 2010
Arizona State Courts Building
Conference Room 119 A/B
1501 W. Washington Street
Phoenix, AZ 85007

MEMBERS PRESENT:

Honorable James A. Soto	Honorable Bethany Hicks
Honorable Eddward Ballinger	Honorable Michael K. Jeanes
Honorable Michael J. Burke	Honorable Kenneth Lee - <i>telephonic</i>
Honorable James Conlogue - <i>telephonic</i>	Honorable Margaret Maxwell
Honorable Michael J. Cruikshank - <i>telephonic</i>	Honorable Stephen F. McCarville
Honorable Norman Davis	Honorable Colleen McNally
Honorable Robert Duber II	Mr. Marcus Reinkensmeyer
Honorable Sue Hall - <i>telephonic</i>	Honorable Monica L. Stauffer - <i>telephonic</i>
Mr. Tim Hardy - <i>telephonic</i>	Ms. Susan Wilson
Honorable Charles V. Harrington - <i>telephonic</i>	Honorable Stephen Villarreal - <i>telephonic</i>
Honorable Danna Hendrix - <i>telephonic</i>	

MEMBERS ABSENT:

Honorable Andrew Gould	Honorable David Mackey
Mr. Joshua Halversen	Ms. JoJene Mills

PRESENTERS/GUESTS:

Ms. Katy Proctor, AOC	Mr. Paul Julien, AOC
Ms. Patience Huntwork, AOC	Ms. Theresa Barrett, AOC
Mr. Gabriel Goltz, AOC	

STAFF:

Ms. Kay Radwanski	Ms. Tama Reily
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I. REGULAR BUSINESS

A. Welcome and Opening Remarks

With a quorum present, the May 14, 2010, meeting of the Committee on Superior Court (COSC) was called to order by Honorable James A. Soto, chair, at 10:06 a.m.

Judge Soto recognized departing committee members Judges Danna Hendrix, Stephen Villarreal, and Norman Davis, and Ms. JoJene Mills, Arizona State Bar representative, and thanked them for their work and dedication to the committee.

B. Approval of Minutes

The minutes from the February 5, 2010, COSC meeting were presented for approval.

MOTION: To approve the February 5, 2010, COSC meeting minutes as presented. Motion seconded. Approved unanimously. COSC-10-05

BUSINESS ITEMS/POTENTIAL ACTION ITEMS

A. Legislative Update

Katy Proctor, AOC legislative liaison, reported on bills passed in the recently concluded legislative session. The effective date of the legislation is July 29, 2010. Ms. Proctor also thanked members for their assistance and responsiveness during the session. The following bills were highlighted:

HB 2109: Superior court; holiday hours

If the Board of Supervisors designates the Friday after Thanksgiving a legal holiday in place of Columbus Day, the presiding judge of the county may close the Superior Court on the day after Thanksgiving and conduct court business on Columbus Day instead.

HB 2334: Costs; superior court; document preparation

Permits the court, at the judge's discretion, to award the prevailing party the cost of documentation preparation if the document is prepared by a legal preparer.

HB 2419: Sibling visitation rights

The Department of Economic Security must make reasonable efforts to place the child with siblings or if that is not possible, they need to provide information as to why it cannot occur, and then, frequent visitation or contact between the siblings must be maintained.

HB 2470: Public defender; duties; reimbursement

Clarifies and adds to the required duties of a public defender in Superior and Justice Court.

HB 2471: Appointed mental health experts; requirements

The court is not required to appoint a mental health expert in a competency exam; however, the court may appoint one on its own motion or on the motion of a third party. Stipulates that the expert must be approved by the court.

HB 2608: Constables; jurisdiction surcharge

Requires the court to collect a 10% surcharge on the amount of the fine owed by the defendant when the warrant served by a sheriff or constable was issued by a justice or superior court for failure to pay a fine.

HB 2629: Firearms; self defense; registration

Prohibits a political subdivision from requiring or maintaining permanent or temporary record of any person temporarily storing a weapon at a public establishment or event.

SB 1009: Juvenile prosecutions; adult court; age

Criminal prosecution of a juvenile is based on the age *at the time of the offense*, not the age at the time the case is filed.

SB 1035: Parental rights; termination; hearing

Court appointed guardians ad litem (GAL) or attorneys for a minor must meet with the minor at least once prior to the preliminary protective hearing (PPH) or within 14 days after the PPH.

SB 1189: Admissibility of opinion testimony

Requires that in a civil and criminal action, expert testimony regarding scientific, technical or other specialized may only be offered by a qualified witness. Essentially, applies *Daubert* to Arizona; however, the bill mandates that the judge apply the enumerated factors if applicable, whereas *Daubert* provides the discretion judge on this point.

SB 1314: Domestic relations

Contains a public policy statement declaring that it is in the best interest of a child to have substantial and meaningful parenting time with both parents and to have both parents engage in decision-making for the child, unless there is evidence to the contrary. Ms. Proctor thanked Judge McNally and Judge Gass for their efforts on the rewriting of this bill.

Ms. Proctor also noted two bills of interest that were not passed:

SB 1094: Marriage dissolution; disposition of property

HB 2501: Dependent children; hearings; notice

Judge Soto thanked Ms. Proctor for her work and that of the other legislative team members.

B. Pending Rule Change Petitions – *Item taken out of order*

Patience Huntwork, staff attorney, Arizona Supreme Court, reviewed current pending rule change petitions. She briefly discussed the rule-making process and encouraged members to participate in the process by following the submission of petitions, submitting comments, and viewing the comments of others. Pending rule petitions and comments can be viewed at <http://www.azcourts.gov/LinkClick.aspx?fileticket=uYZT0WnIn6U%3d&tabid=949>.

After much discussion on R-09-0016: Jury Duty by Court Employees, which would exclude court employees from jury service in the courts in which they are employed, and R-10-0018: Reporting of Superior Court Matters Not Decided Within 60 Days, which would require

superior court clerks to report violations of the 60-day requirement, members agreed the committee as a whole should file comments opposing the petitions. As the deadline for filing comments was May 20, the committee authorized Judge Soto to approve responses as prepared by staff and submit them prior to May 20.

MOTION: To submit a committee comment opposing R-09-0016, Petition to amend Arizona Rules of Civil Procedure. Motion seconded. Approved unanimously. COSC-10-06

MOTION: To submit a committee comment opposing R-10-0018, Petition to amend Rule 91(e), Rules of the Supreme Court. Motion seconded. Approved unanimously. COSC-10-07

C. Update and Discussion – Petition R-10-0017 to Amend the Arizona Rules of Protective Order Procedure

Kay Radwanski, AOC committee staff, updated members on Judge Elizabeth Finn's proposed petition R-10-0017 to amend the Arizona Rules of Protective Order Procedure. The proposal was discussed at the February, 2010, COSC meeting, and at that time the committee recommended additional discussion and refinement of the petition. Since then Judge Finn has withdrawn her petition and, in lieu of the rule change, requested that a workgroup be formed to further explore the issue. Ms. Radwanski informed members that the workgroup has been formed and is expected to begin meeting soon. The workgroup includes superior court judges, limited jurisdiction court judges, and representatives of the clerks of court.

D. Judicial Education in 2010 and Beyond

Gabriel Goltz, Education Services Division (EDS) manager of the Judicial College of Arizona (JCA), and Paul Julien, EDS judicial education officer, updated the committee on the status and focus of their training and education programs for judicial officers in 2010. Mr. Goltz discussed their efforts to improve on continuing education programs, particularly in light of the cancellation of the 2010 Judicial Conference. They hope to place more emphasis on the needs for various types of training throughout the year rather than having so much prominence on the annual Judicial Conference. He reported on some format changes in the New Judge Orientations (NJOs) conducted this year, for both limited and general jurisdiction. Mr. Julien reviewed several of the seminar topics that will take place at the upcoming Arizona State Bar Convention slated for June 9 to 11 in Glendale. Members were encouraged to attend based on the exceptional educational opportunities being provided. In addition, judges attending the convention would fulfill all of their COJET requirements.

III. OTHER BUSINESS

Ms. Radwanski informed members of changes to SB 1266, the juvenile 'sexting' bill, which was signed into law by the governor. At the last hour, it was amended with three domestic violence bills that included provisions for orders of protection for pets, increased

the offense of attempted strangling or suffocating to aggravated assault, and added several crimes to the definition of domestic violence.

A. Next Meeting

Friday, September 10, 2010

10:00 a.m. – 3:00 p.m.

Conference Room 119 A/B

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1501 W. Washington

Phoenix, AZ 85007

C. Good of the Order/Call to the Public

No comments offered.